

REMARKS

Applicants amend herein claims 1-4 and 6, and cancel claims 5 and 14.

RESTRICTION AND REJECTION UNDER 35 USC §101 AND §112, ¶2

The examiner maintains restriction of the claims. Applicants have introduced the subject matter of claim 14 into claim 1, and respectfully request that the examiner examine this alternate claim grouping. By amending claim 1 in this manner, applicants have also made explicit the steps necessary to practice the invention, thus obviating the rejections under 35 USC §101 and §112.

REJECTION UNDER 35 USC §102(E)

The examiner rejects claims 1-6 as anticipated by the disclosure of Kolter et al. (US 6,046,277). This rejection is respectfully traversed. The presently amended claims recite elements requiring that coated articles be compressed with conventional tablet excipients to form dosage forms. The cited Kolter reference does not disclose such a step, and therefore cannot anticipate the present invention.

REJECTION UNDER 35 USC §103(A)

The examiner further rejects claims 1-6 as obvious over Kolter et al., further in view of several other references. However, as 35 USC §103(c) states that

(c) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the

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subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Given that the inventive entities are not identical, that Kolter applies only under §102(e), and that the patented subject matter and the presently claimed invention were subject to an obligation of assignment to the same legal entity, the cited Kolter reference cannot be applied against the present invention under §103 of the patent code.

CONCLUSION

In view of the foregoing amendments and remarks, applicants consider that the rejections of record have been obviated and respectfully solicit passage of the application to issue.

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Respectfully submitted,
KEIL & WEINKAUF

A handwritten signature in black ink, appearing to read 'David C. Liechty', with a stylized flourish at the end.

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